

**STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
CROSS BORDER TRUCKING AND THE DOT PILOT PROGRAM
FULL COMMITTEE MARKUP
MAY 1, 2007**

- On February 23, 2007, Secretary of Transportation Peters announced the start of a one-year pilot program to grant 100 Mexico-domiciled trucking companies unrestricted access to U.S. roads. It is because of this announcement and the Department of Transportation's ("DOT") approach to opening the U.S.-Mexico border that the Committee must mark up H.R. 1773, the Safe American Roads Act.
- I would like to commend Chairman DeFazio for his work on this issue and for his determination in probing the details of this pilot program at an oversight hearing held by the Subcommittee on Highways and Transit on March 13, 2007. I would also like to thank Ms. Boyda for introducing this bill. I also thank Mr. Hunter and many of our Republican Committee colleagues, including Mr. Duncan, Mr. LaTourette, Ms. Miller, Mr. Poe, and many others, for introducing similar legislation.
- The North American Free Trade Agreement ("NAFTA") took effect on January 1, 1994, and removed restrictions that were in place on cross-border truck and bus service between the United States and Mexico. The United States is bound to live up to its commitments under this free trade agreement.

- I would like to clarify what this commitment entails. Since 1995, the opening of the U.S.-Mexico border has been delayed due to serious concerns over whether opening the border would adversely impact safety on U.S. roads, based on numerous reports of safety violations by Mexico-domiciled motor carriers, their vehicles, and their drivers. This delay, and the imposition of tough safety standards on Mexico-domiciled motor carriers that seek long-haul operating authority in the United States, is within the right of the U.S. pursuant to NAFTA.
- In February 2001, a NAFTA arbitration panel, requested by the Mexican government, concluded that a blanket refusal to process any applications of Mexican motor carriers was a breach of the obligations of the United States under NAFTA. However, the panel recognized the United States' concerns with the safety of Mexico-domiciled carriers, and specifically found that the U.S. could impose more stringent requirements and safety standards on Mexico-domiciled operations.
- President Bush, since he served as Governor of Texas, has long called for opening the border and, in response to the findings of the arbitration panel, the Administration announced its intent to open the border to truck and bus traffic.
- While real safety concerns remain today, the safety record of Mexican trucking companies and their drivers a decade ago was undeniable and appalling: vehicle out-

of-service rates topped 50 percent, unqualified drivers were behind the wheel, and maintenance practices by Mexican carriers were severely lax. Several border crossings, particularly in Texas, had no motor carrier inspectors.

- Unfortunately, it seems that the philosophy to open the border at any cost continues to drive this Administration.
- I continue to question whether DOT is truly ready to open the border, and whether adequate systems are in place to make sure Mexican carriers meet our strict federal safety requirements.
- It is well established that Mexican law does not require many fundamental elements of highway safety that are required for U.S. drivers. Unlike U.S. commercial vehicle drivers, Mexican drivers are not subject to comparable hours-of-service restrictions. The anecdotal evidence of drivers traveling into the United States after more than 24 straight hours of driving is chilling.
- Mexico has no certified lab to test drivers for drug and alcohol.
- Licensing requirements for Mexican commercial drivers are not the same as for U.S. drivers, yet a Mexican license will be accepted for travel on roads across our country.

- Data collection issues and tracking violations of Mexican drivers while operating a vehicle also remains a challenge.
- Despite these realities, DOT proposes to move ahead with a pilot program, with minimum public notification and without any plans to report to Congress.
- Current law, enacted under the Transportation Equity Act for the 21st Century (TEA 21), requires DOT to meet certain standards when conducting a pilot program to “evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety” (49 U.S.C. 31315). At a Subcommittee on Highways and Transit hearing on March 13, 2007, Federal Motor Carrier Safety Administrator John Hill testified that these requirements, which include a report to Congress and public notification, do not apply to the cross-border pilot program.
- In fact, until this week, DOT had not published any information on the pilot program in the *Federal Register* or provided any other opportunity for public comment. While the notice published on Monday of this week is the right start, the Secretary has not detailed the mechanisms nor the funding for the Department to monitor the safety of carriers while in the program; how the Department will revoke operating authority; what measures will be used to evaluate if the pilot

program is having an adverse effect on safety; or what enforcement tools and penalties will be used to combat carriers who engage in cabotage.

- These are just a few examples of what the American people need and deserve to know prior to such a major shift in transportation policy.
- The Safe American Roads Act will hold DOT accountable as it moves to allow Mexico-domiciled motor carriers access to operate beyond the border zones. This bill sets strong prerequisites for DOT to meet, mandates extensive information to be made available to the public, and restores an appropriate role for Congress.
- The bill, if the amendment in the nature of a substitute is adopted, authorizes a pilot program of up to three years. This pilot program is a sensible way to test the operation of long-haul carriers in the U.S. and provide an opportunity to evaluate the results. H.R. 1773, as amended, will not allow DOT to conduct a one-year pilot as a ruse, while unilaterally deciding how and when to open the U.S.-Mexico border.
- Members of this Committee, on both sides of the aisle, have long urged the Administration to proceed with caution and not open the border to Mexico-domiciled trucks until sufficient checks are in place to ensure that they meet U.S. motor carrier safety laws.

- As a nation, we are obligated to live up to our commitments under NAFTA. As Members of Congress and of this Committee, we are charged with protecting the safety of our citizens.
- This bill ensures that the safety of our citizens comes first.